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TREASURY FOR NANCY LEE LUYEN TRAN AND MICHAEL MUNDACA
COMMERCE FOR WALTER BASTIAN ANNE DRISCOLL AND LORRIE FUSSELL

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SUBJECT: BRAZIL: USTR Amb Kirk Sept 16-17 Visit to Brasilia and Sao Paulo

REF: BRASILIA 1129

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¶1. (SBU) SUMMARY: In meetings with the private sector and labor representatives, as well as government officials, USTR Ambassador Ron Kirk achieved significant success in re-framing the tone of the U.S.-Brazil trade and investment relationship. Common themes, including the need for a Bilateral Tax Treaty, the importance of intellectual property protection and further exploration of elements of an investment agreement, as well as the desire to maintain GSP preferences, were raised by both private sector and government interlocutors. The press was eager to discuss the WTO cotton case and the U.S. decision on Chinese tires, but low-key responses from USTR and the Minister of External Relations (MRE) ensured these themes did not dominate the visit's take-away message stressing a positive bilateral cooperation framework and deeper trade and investment ties. FM Amorim agreed to work toward a new structural framework for trade and investment discussions. END SUMMARY

AmCham Event

¶2. (SBU) USTR Kirk began his visit with well-received luncheon remarks to approximately 100 senior members of the Sao Paulo American Chamber of Commerce, the largest AmCham in the world. Ambassador Kirk's speech emphasized the importance of U.S.-Brazil relations and USG interest in deepening dialogue on bilateral trade and investment issues. In response to written questions on the cotton dispute narrowly and the U.S.-Brazil relationship broadly, USTR Kirk noted the U.S. remains interested in concluding a Double Taxation Treaty with Brazil and identified technology and innovation sectors as key areas for future bilateral trade expansion, while deferring to GOB to articulate next steps on cotton. On the margins of the lunch, AmCham Executive Director Gabriel Rico and Board Member Gaetano Crupi told Ambassador Kirk in reference to the recent WTO ruling against U.S. cotton supports, that any cross-retaliation by Brazil in the area of intellectual property rights would hurt Brazil more by harming investment and the public health sector. USTR Kirk encouraged the Brazilian private sector to raise this concern with the GOB.

Private Sector Roundtable

¶3. (SBU) Following the AmCham luncheon, USTR Kirk held an

off-the-record roundtable with representatives from the Brazilian business community. USTR Kirk opened by expressing USG interest in expanding the bilateral trade and investment relationship. Representatives from Embraer, Duke Energy, Abbott Pharmaceutical, ADM, GM, the Sugar Growers' Association (UNICA), and the Sao Paulo Federation of Industries (FIESP) stressed the continued importance of the U.S. market for their goods, despite the increased focus on Brazil by Asian customers. Most voiced concern that the prospect of Brazil engaging in cross-retaliation on intellectual property rights as part of the WTO cotton decision could harm investment and spark a trade war with the U.S. The FIESP representative (also the head of the Brazilian Beef Producers group) suggested compensation or even an agreement to provide additional trade capacity-building development assistance in African countries, rather than retaliation, would be a preferred solution. Industry representatives worried about the GOB increasing its presence in the oil sector as both an investor and a regulator. Other issues of interest to industry participants were the need for a bilateral tax treaty, the protection of intellectual property rights, the increasing size of China's trade with Brazil, ethanol tariffs in the U.S., and opening the U.S. market for beef imports. In closing, USTR Kirk expressed optimism that current differences with Brazil could be resolved through dialogue. He reiterated USG interest in establishing a bilateral framework to deepen positive cooperation on trade and investment issues.

Labor Roundtable

¶4. (SBU) USTR Kirk concluded his Sao Paulo meetings with a roundtable discussion with leaders of Brazil's three largest labor unions, the Central Workers' Union (CUT), the General Workers Union (UGT) and Forca Sindical, as well as the director of the Campinas University Labor Studies Center. Ambassador Kirk opened by

discussing President Obama's commitment to ensuring increased trade and also raised labor, environmental and social standards. These Brazilian labor union representatives welcomed the President's attendance at a national labor summit the previous day in Pittsburgh in preparation for the G-20 Summit as evidence of the commitment to engage unions in the economic agenda. They hailed USTR Kirk's visit and desire to meet with them as an important symbol of openness. They outlined the growing international cooperation among regional unions, the improvement of working conditions, and a growing labor voice in the development of economic social development policy during President Lula's administration. They emphasized the importance of trade for job growth and acknowledged that disputes hurt all nations. USTR Kirk welcomed Brazilian labor's openness to new market realities and emphasized the importance of continuing to work together to maximize the benefits of trade for all sectors.

National Confederation of Industry (CNI)
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¶5. (SBU) The President of CNI, the umbrella association of state-level industry associations, accompanied by CNI Executive Director and CNI International Negotiations head, as well as the vice-president of FIRJAN (the Rio CNI branch) and the president of FIERGS (Rio Grande do Sul branch), laid out priorities for the U.S.-Brazil commercial relationship, including the Doha Round, energy cooperation, and a bilateral tax treaty (BTT). The CNI President (who is also a member of congress) particularly underlined support for a BTT, noting that the Brazilian private sector needs to exert strong pressure on GOB to support and that he has stressed the importance of a BTT to the Brazilian congress as well: "This is very much a point on my agenda." Interlocutors noted the private sector is rethinking its position on bilateral investment treaties (BITs). Noting BITs used to be "taboo," and many still worry that BITs can also negatively affect the private sector, CNI representatives said Brazil needs to explore a "new" kind of investment treaty, as Brazilian companies have become more aggressive in the last ten years pursuing FDI overseas. Noting that large service providers, as well as industry, are already active in Europe and the United States, and will eventually expand significantly in Asia, CNI is beginning to urge a global approach to considering investment

protections. Recognizing the constraints of Mercosul membership, CNI emphasized eagerness to seize opportunities for deeper bilateral U.S.-Brazil cooperation on trade and investment issues. Noting the United States has a bilateral TIFA with Uruguay "despite Mercosul," CNI believes latitude exists to create similar U.S.-Brazil ties. Ambassador Kirk indicated USG interest in developing a more structured framework to guide trade and investment relations; negotiating a BIT that would help companies in both countries; strengthening intellectual property rights cooperation to the benefit of technology development, innovation, and entrepreneurship; and exploring increased cooperation on services, including green technologies. He also welcomed CNI participation in the OECD Business and Industry Advisory Committee, as well as CNI's strong support for eventual full GOB OECD membership.

¶6. (SBU) CNI representatives underlined their interest in preserving GSP eligibility. Amb. Kirk noted Congress intends the program the program to be a jumpstart rather than a lifeline. CNI participants acknowledged that as trade and investment between the United States and Brazil deepens and closer links are negotiated, eventually GSP will become less important to Brazil. Turning to climate change, CNI indicated concern regarding trade provisions in the Waxman-Markey bill, underlined domestic measures to address climate change, and stressed the importance of differentiated responsibility based on different development levels.

¶7. (SBU) Regarding Argentina, CNI representatives emphasized that Brazil, despite being Mercosul members, were experiencing significant problems and delays due to Argentine licensing requirements. As a tangible example, the FIERG representative noted his state relies heavily on footwear exports, where licenses have been held up six months per shipment, ensuring shoes actually arrive long after the intended season has ended. CNI indicated the Brazil/Argentine business forum had met the previous week, where Argentine business made clear they saw no indication that GOA would reverse these new requirements, in spite of the negative impact on Argentine business as well. CNI President emphasized that Brazilian companies are heavily integrated with Argentine companies, so

Argentina's "difficult political environment" is having a real impact industry can only hope to "attenuate" rather than "solve." Brazilian industry is losing market share in Argentina to China, an issue of deep concern. CNI's executive secretary noted that CNI had prepared a analysis for GOB with a recommendation the government bring a WTO case against Argentina regarding the export licenses, but did not get much GOB support given geopolitical interests. The CNI President explained that weighing against these "very deleterious practices" is Brazil's attempt to be a stabilizing force in the region and to avoid divisive issues. Ultimately, he stated, GOB is trying to support Argentina to stop the GOA from aligning with Venezuela.

FM Amorim

¶8. (SBU) FM Amorim, accompanied by his Chief of Staff as well as his Undersecretary and Assistant Secretaries for economic affairs, stated he had "no intellectual resistance" at all to an agreement with the United States, repeatedly emphasizing "without detriment to Mercosul commitments." He noted that due to Mercosul, Brazil would not be able to address tariff issues bilaterally. Amorim stated that "Mercosul for us is a political project to diminish our conflicts and resolve our problems." Acknowledging that the Mercosul tariff mechanism is "very imperfect," Brazil still needed to respect the premise. That said, Amorim continued, Brazil had economic agreements that did not address tariffs, suggesting Switzerland and Turkey as good examples. Ambassador Kirk agreed USTR would review those agreements (NOTE: emailed to USTR). Partly as a result of the CEO Forum recommendation, MRE is interested in exploring where deeper, "more imaginative" cooperation could be possible. Such a framework would be positive in addressing aspects of trade and other economic cooperation, Amorim felt. Amorim said he would not call an agreement with the United States a "TIFA" (Trade and Investment Framework Agreement), because he did not want to be locked into a pre-determined model, suggesting a name such as

"economic cooperation" agreement might allow more flexibility. In a separate meeting AUSTR Eissenstat held later in the day with CAMEX ExecSec, Commerce Ministry (MDIC) U/S for International Trade, and Minister Rousseff's international affairs advisor, interlocutors indicated strong support in their organizations as well for exploring TIFA possibilities. Both Amorim and MDIC noted that mechanisms labeled "agreements" require congressional ratification, which can take years to achieve. MDIC also noted "TIFA" is very close to the Portuguese word for typhoid ("tifo") and did not sound positive to Brazilian ears.

¶9. (SBU) Amorim said the U.S. and Brazil should deepen cooperation toward a tax agreement. He noted that Receita Federal (IRS-equivalent) is resisting a BTT, but that Brazilian companies operating in the United States want an agreement, therefore a BTT "is something we should do" even if not easy to achieve. For an investment agreement, Amorim said Brazil was a "complicated country." He recalled the dozen late-1990s BITs that the congress rejected on the grounds that domestic industry had to use the court system for disputes, while foreign companies could access international arbitration. Commenting that while he "found that logic shaky and frankly we could use" investment protections in countries Brazil deals with, Amorim felt arbitration could be difficult to tackle in an agreement. Nonetheless, he believed there could be scope to address principles such as MFN, NT and other aspects of an investment agreement.

¶10. (SBU) Amorim urged Congress renew GSP for Brazil, noting most products are intra-firm trade and the small remainder benefit poor regions in the north/northeast of Brazil. Amorim believed that, were GSP withdrawn from Brazil, Chinese rather than U.S. producers would benefit. Acknowledging Brazil would not be able to remain in the GSP program in the long run, he stressed that Brazil needed access as least during the global economic crisis.

¶11. (SBU) Amorim raised two SPS issues - beef access and the current rule-making underway on Santa Catarina pork regionalization. Saying there would be "big symbolic value" in gaining Santa Catarina pork access, he was concerned that despite his understanding the technical assessment went well, the rule-making might become politicized. Noting he needed to be able to say he raised the ethanol tariff issue, Amorim was well-aware of the previous Grassley

hold in the Senate and the strength of Congressional views on this issue. On cotton, Amorim said he would tell the press MRE continues to study next steps.

¶12. (SBU) Amorim indicated Haiti was a political more than economic issue for Brazil, given interest in its stability. He said Brazil's lead on the UN troops had generated great interest in GOB in finding other ways Brazil can contribute, from development assistance to forest conservation to dam construction (noting US assistance with financing would be particularly welcome in the latter). (Note: in the CAMEX/MDIC/Planalto meeting, interlocutors indicated that President Lula had explicitly tasked all 34 Ministries to find ways to assist Haiti - from trade preferences to sports exchanges. MDIC is working on developing trade preferences ideas, but cautioned preferences would require a Mercosul as well as WTO waiver). Amorim reiterated GOB interest in HOPE II access for Brazilian companies to produce in Haiti and export to the United States. He stated that GOB is prepared to offer the United States reciprocal access, contingent on a Mercosul waiver from Paraguay (which he indicated was proving problematic) and congressional approval.

¶13. (SBU) Ambassador Kirk raised industry concerns regarding the proposed new pre-salt legislation. Amorim said he would look into the matter, but understood that the model GOB is proposing is similar to the one most oil countries use and that many companies have approached Brazil interested in participating. Amorim stated the proposed model was not like Russia or Venezuela and Brazil's intention is not to have a Petrobras monopoly, noting Brazil needs foreign investment. Given this is Brazil's first experience with extensive oil resources, he noted that there may be a bit of a learning curve for Brazil.

¶14. (SBU) Amorim expressed strong support for intellectual property protections, noting his main problems in negotiating TRIPs at the time had been his constrained ability to guarantee enforcement resources, given other GOB budget priorities. Ambassador Kirk and Amorim discussed common piracy challenges in Asia. Amorim indicated family members (he has three children in the film industry) had been directly impacted by rampant piracy in Asia. GOB interlocutors were visibly intrigued to learn that Canada poses a major piracy challenge for the United States and was on the Special 301 Priority Watch List.

¶15. (SBU) COMMENT: Ambassador Kirk's visit was highly successful in re-framing the tone of U.S.-Brazil relations and in gaining strong and widespread GOB and private sector support for a new framework for bilateral cooperation. Cotton did not overwhelm MRE/USTR discussions. Private sector interlocutors stressed concerns regarding any potential cross-retaliation on intellectual property rights and indicated compensation would be preferable to retaliation. Press reporting on the visit was accurate and favorable, although one editorial (Estado) the day after the trip expressed disappointment that USG did not meet press-generated expectations that the trip should have focused on cotton retaliation and the Doha Round. The visit was a significant impetus to creating deeper trade and investment ties between the United States and Brazil, and Brazilian interlocutors both in the private sector and the government expressed eagerness to explore concrete and tangible cooperation. END COMMENT

Message drafted by CG Sao Paulo and EMB Brasilia. The delegation has cleared this message.

KUBISKE